

(viii) *Actual offset value.* Provide the U.S. dollar value of the offset transaction without taking into account multipliers or intangible factors. Should the offset transaction involve more than one NAICS code, please list the U.S. dollar values associated with each NAICS code.

(ix) *Offset credit value.* Provide the U.S. dollar value credits claimed by the offset performing entity, including any multipliers or intangible factors.

(x) *Offset transaction performance location.* Name the country where each offset transaction was fulfilled, such as the purchasing country, the United States, or a third country.

§ 701.5 Confidentiality.

(a) As provided by § 309(c) of the Defense Production Act of 1950, as amended, BIS shall not publicly disclose the information it receives pursuant to this part, unless the firm furnishing the information subsequently specifically authorizes public disclosure.

(b) Public disclosure must be authorized in writing by an official of the firm competent to make such an authorization.

(c) Nothing in this provision shall prevent the use of data aggregated from information provided pursuant to this part in the summary report to the Congress described in § 701.1.

§ 701.6 Violations, penalties, and remedies.

(a) Willful violation of the Defense Production Act may result in punishment by fine or imprisonment, or both. The maximum penalty provided by the Defense Production Act is a \$10,000 fine, or one year in prison, or both.

(b) The Government may seek an injunction from a court of appropriate jurisdiction to prohibit the continuance of any violation of, or to enforce compliance with, the Defense Production Act and this regulation.

[74 FR 68141, Dec. 23, 2009]

EFFECTIVE DATE NOTE: At 74 FR 68141, Dec. 23, 2009, § 701.6 was added, effective Jan. 22, 2010.

PARTS 702–704 [RESERVED]

PART 705—EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

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AUTHORITY: Sec. 232, Trade Expansion Act of 1962, as amended (19 U.S.C. 1862).

SOURCE: 47 FR 14693, Apr. 6, 1982, unless otherwise noted. Redesignated at 54 FR 601, Jan. 9, 1989.

§ 705.1 Definitions.

As used in this part:

Department means the United States Department of Commerce and includes the Secretary of Commerce and the Secretary's designees.

Secretary means the Secretary of Commerce or the Secretary's designees.

Applicant means the person or entity submitting a request or application for an investigation pursuant to this part.

§ 705.2 Purpose.

These regulations set forth the procedures by which the Department shall commence and conduct an investigation to determine the effect on the national security of the imports of any article. Based on this investigation, the Secretary shall make a report and recommendation to the President for action or inaction regarding an adjustment of the imports of the article.

§ 705.3 Commencing an investigation.

(a) Upon request of the head of any government department or agency, upon application of an interested party, or upon motion of the Secretary, the Department shall immediately conduct an investigation to determine the

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effect on the national security of the imports of any article.

(b) The Secretary shall immediately provide notice to the Secretary of Defense of any investigation initiated under this part.

[47 FR 14693, Apr. 6, 1982. Redesignated at 54 FR 601, Jan. 9, 1989, and amended at 63 FR 31623, June 10, 1998]

§ 705.4 Criteria for determining effect of imports on the national security.

(a) To determine the effect on the national security of the imports of the article under investigation, the Department shall consider the quantity of the article in question or other circumstances related to its import. With regard for the requirements of national security, the Department shall also consider the following:

(1) Domestic production needed for projected national defense requirements;

(2) The capacity of domestic industries to meet projected national defense requirements;

(3) The existing and anticipated availabilities of human resources, products, raw materials, production equipment and facilities, and other supplies and services essential to the national defense;

(4) The growth requirements of domestic industries to meet national defense requirements and the supplies and services including the investment, exploration and development necessary to assure such growth; and

(5) Any other relevant factors.

(b) In recognition of the close relation between the strength of our national economy and the capacity of the United States to meet national security requirements, the Department shall also, with regard for the quantity, availability, character and uses of the imported article under investigation, consider the following:

(1) The impact of foreign competition on the economic welfare of any domestic industry essential to our national security;

(2) The displacement of any domestic products causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects; and

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(3) Any other relevant factors that are causing or will cause a weakening of our national economy.

§ 705.5 Request or application for an investigation.

(a) A request or application for an investigation shall be in writing. The original and 1 copy shall be filed with the Director, Office of Technology Evaluation, Room H-1093, U.S. Department of Commerce, Washington, DC 20230.

(b) When a request, application or motion is under investigation, or when an investigation has been completed pursuant to § 705.10 of this part, any subsequently filed request or application concerning imports of the same or related article that does not raise new or different issues may be either consolidated with the investigation in progress as provided in § 705.7(e) of this part, or rejected. In either event, an explanation for taking such action shall be promptly given to the applicant. If the request or application is rejected, it will not be returned unless requested by the applicant.

(c) Requests or applications shall describe how the quantity, availability, character, and uses of a particular imported article, or other circumstances related to its import, affect the national security, and shall contain the following information to the fullest extent possible:

(1) Identification of the applicant;

(2) A precise description of the article;

(3) Description of the domestic industry affected, including pertinent information regarding companies and their plants, locations, capacity and current output of the industry;

(4) Pertinent statistics on imports and domestic production showing the quantities and values of the article;

(5) Nature, sources, and degree of the competition created by imports of the article;

(6) The effect that imports of the article may have upon the restoration of domestic production capacity in the event of national emergency;

(7) Employment and special skills involved in the domestic production of the article;